

**ASSEMBLY BILL**

**No. 1255**

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**Introduced by Assembly Member Wright**

February 26, 1999

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An act to add and repeal Chapter 1.3 (commencing with Section 1210) of Title 8 of Part 2 of the Penal Code, relating to sentencing.

LEGISLATIVE COUNSEL'S DIGEST

AB 1255, as introduced, R. Wright. Sentencing: intensive correctional supervision program.

Existing law provides as a sentencing option for convicted felons, that the felon be placed on probation with court-ordered conditions of probation, if eligible, or sentenced to a term of imprisonment in the state prison.

This bill would set forth legislative findings and declarations of intent in regard to prison overcrowding and the need for community-based intermediate sanctions as an alternative to prison.

This bill would authorize counties to establish an intensive correctional supervision program, as specified, to which a convicted felony offender who meets enumerated criteria could be sentenced by a court for up to 9 months and upon completion of which the offender would be required to be placed on probation for up to 4 years. The bill would require that the programs commence on or after July 1, 2002.

This bill would require the probation officers of participating counties to make an investigation of the offender's eligibility and suitability for intensive correctional

supervision, the results of which would be included in the probation officer's recommendation to the court.

This bill would specify that the chief probation officer of each participating county would be responsible for the county program under the bill and for coordinating and contracting for all related services. The bill would also specify that the Department of Corrections would have administrative responsibility for, and oversight of, the county programs.

The bill would additionally state the Legislature's intent that funds be redirected from paying for state prison incarceration costs to paying for the costs of intensive correctional supervision for eligible persons under these provisions.

The bill would require that a county intensive supervision program established pursuant to the bill be financed by the state and county, as specified, and would provide that funding for the bill is contingent upon a Budget Act appropriation establishing the Intensive Correctional Supervision Account from which the Department of Corrections would be required to provide funds to counties for the purposes of the bill.

This bill would also require the Department of Corrections, on or before January 1, 2007, to evaluate, as specified, the intensive correctional supervision programs and report the conclusions of its evaluations to the Legislature.

The bill would provide that its provisions shall remain in effect until January 1, 2008, and as of that date are repealed.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. This act shall be known and may be cited  
2 as the State-Local Corrections Partnership Act of 2000.

3 SEC. 2. (a) The Legislature finds and declares the  
4 following:

5 (1) The state prison population on June 30, 1998, was  
6 158,207 compared to 72,121 on June 30, 1988, an annual  
7 compounded growth of 8.2 percent.



1 (2) Without some significant change in this growth, or  
2 alternative sentencing programs, the state will be forced  
3 to spend billions of dollars in new state prison  
4 construction.

5 (3) The practice of the imprisonment of new  
6 commitments and parole violators in the state prison who  
7 serve one year or less offers little opportunity to  
8 implement strategies to manage offender behavior and to  
9 sustain long-term behavior change that would promote  
10 public safety.

11 (4) The 24-member Blue Ribbon Commission on  
12 Inmate Population Management, including the 13  
13 members appointed by the Governor, unanimously  
14 agreed in its final report that "... insufficient prevention  
15 efforts, intermediate sanctions, and programs for those  
16 incarcerated exist, and as a result, there are offenders  
17 incarcerated and on probation who judges and parole  
18 authorities would, and should, manage differently if those  
19 sanctions were available."

20 (5) The commission found that certain individuals  
21 with no history of violence and noncareer offenders are  
22 likely target populations for punishment options other  
23 than prison.

24 (6) The commission recommended intensive  
25 probation supervision, residential and nonresidential  
26 substance abuse treatment programs, and other  
27 community-based punishment options as alternatives to  
28 state prison for minor parole violators and nonviolent  
29 offenders facing short prison commitments.

30 (7) Intensive correctional supervision programs have  
31 reduced recidivism and prison overcrowding in other  
32 states which have adopted similar programs.

33 (8) State and local corrections should be viewed as an  
34 interconnected system that provides an array of  
35 appropriate punishment alternatives, including  
36 intermediate punishment options.

37 (9) A strategy of realigning juvenile and adult justice  
38 responsibilities of state and local correctional systems in  
39 a manner that maintains public safety, increases  
40 accountability, and reduces costs is needed.

(10) It is the intent of the Legislature that local government be given the opportunity to participate in a state-local partnership to house specified populations of the state prison. A dedicated revenue source equal to state savings shall be provided to participating local governments as a part of this transaction.

(b) It is the intent of the Legislature to endorse the commission's findings as to the need for community-based intermediate sanctions and to implement a program of intensive correctional supervision, drug testing and treatment, intermediate punishment options, and mandatory educational and employment programs.

SEC. 3. Chapter 1.3 (commencing with Section 1210) is added to Title 8 of Part 2 of the Penal Code, to read:

CHAPTER 9. STATE-LOCAL CORRECTIONS PARTNERSHIP  
ACT OF 2000

1210. This chapter shall be known and may be cited as the State-Local Corrections Partnership Act of 2000.

1210.1. As used in this chapter, the following definitions apply:

(a) "Intensive correctional supervision" means a program, established pursuant to this chapter, of highly structured and closely supervised probation which emphasizes appropriate interventions, including, but not limited to, treatment of substance abuse, education, counseling, employment development, and payment of restitution to crime victims.

(b) "Officer" means a probation officer as listed in Section 830.5.

(c) "Offender" means a person who has been sentenced to, or ordered to participate in, an intensive correctional supervision program.

1210.2. (a) Counties may establish an intensive correctional supervision program applicable to probationers who are qualified pursuant to Section 1210.5. The programs may commence on or after July 1, 2002.

(b) Each intensive correctional supervision program shall conform to the requirements of this chapter and the regulations as shall be established by the administering agencies consistent with this chapter.

1210.3. Each intensive correctional supervision program shall include the following:

(a) Intensive supervision teams, consisting of at least two officers, who shall supervise no more than 40 offenders at one time.

(b) Close supervision and observation of offenders being supervised, including, but not limited to, all of the following:

(1) Face-to-face contact between an officer and the offender at least two times per week.

(2) Frequent chemical testing for the use of alcohol, controlled substances, or both, where their use has been prohibited as a condition of participation in the program.

(3) At least weekly contact by an officer and the offender's employer, educational institution, treatment program, or counselor.

(c) Inpatient and outpatient treatment programs for alcohol and drug abuse which shall be ordered when appropriate and made available as needed for any offender with substance abuse problems.

(d) Job training, placement, education programs, or any combination of these, which shall be mandatory for any offender who is not employed full time or is not a full-time student and is medically capable of participating in the programs.

(e) A requirement that each offender be occupied five days each week, with employment, education, a job search, community service, counseling, treatment, or a combination of these activities as directed by an officer, except where this is not possible because of health constraints.

(f) A case management approach utilizing a community corrections advisory committee consisting of appropriate representatives, including, but not limited to, those from probation, local law enforcement, substance abuse counseling and treatment, mental

1 health, employment development, and education. The  
2 community corrections advisory committee shall work  
3 with intensive supervision teams and assess and address  
4 the needs of each offender.

5 1210.4. An intensive correctional supervision  
6 program may also include any or all of the following:

7 (a) House arrest.

8 (b) Electronic monitoring.

9 (c) Community service.

10 (d) A probation treatment program involving  
11 restitution to the victim by the offender.

12 (e) Placement in a substance abuse community  
13 correctional center as a sanction for a violation of the  
14 terms and conditions of intensive correctional  
15 supervision, if available.

16 1210.5. (a) An offender who has been convicted of a  
17 felony or felonies may be sentenced by a court to a county  
18 probation intensive correctional supervision program if  
19 he or she meets all of the following criteria:

20 (1) The present offense is for a crime punishable by 16  
21 months, two or three years, or one, two, or three years in  
22 the state prison, or for an attempt to commit such a crime,  
23 which did not involve violence against the person of  
24 another, molestation of a minor, or drug trafficking.

25 (2) The offender has not been convicted of a violent  
26 felony, as defined by subdivision (c) of Section 667.5, or  
27 a serious felony, as defined by subdivision (c) of Section  
28 1192.7, or convicted of violating any of the following  
29 provisions:

30 Section 69 or 191.5, subdivision (b) or paragraph (1) or  
31 (3) of subdivision (c) of Section 192, subdivision (a) of  
32 Section 217.1, Section 243, 243.1, or 243.3, subdivision (a)  
33 or (c) of Section 243.4, Section 244, 245, 245.3, 246, 266f,  
34 266h, or 273.5, subdivision (a) of Section 273a, Section  
35 273d or 285, subdivision (b) of Section 286, Section 288a,  
36 subdivisions (b), (h), or (i) of Section 289, subdivision (b)  
37 of Section 311.2, subdivision (c) of Section 311.4, or  
38 Section 314, 417.6, 647.6, 4131.5, or 4501.5 of the Penal  
39 Code, or Section 2800.2 or 20001 or subdivision (b) of  
40 Section 23104 of the Vehicle Code.

(3) The offender has not been sentenced and placed in the custody of the sheriff or correctional administrator to be punished by incarceration or supervised or treated at the local level for a period in excess of one year, but in no case for a period that would result in a period of total incarceration in excess of the period for which the defendant would otherwise have been incarcerated in the state prison.

(4) The offender does not have a significant criminal history which would render him or her unsuitable for the program.

(5) It appears from all information available that the offender would benefit from, and that public safety would not be threatened by, sentencing the offender to an intensive correctional supervision program. Public safety shall be the primary consideration.

(6) The offender agrees in writing to the terms and conditions of intensive correctional supervision.

(7) The offender otherwise would have been committed to the state prison for one year or less. For the purpose of this chapter, the term “committed to the state prison for one year or less” refers to the length of the prison sentence less preprison credit for time served and less maximum credit available under Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3.

(b) In any case in which an offender may be eligible for a county probation intensive correctional supervision program, the probation officer shall, as part of his or her investigation pursuant to Section 1203, make an investigation of the offender’s eligibility and suitability for intensive correctional supervision. The probation officer shall consider (1) the criteria contained in this chapter, (2) whether or not the defendant would benefit from education, treatment, and rehabilitation, and (3) whether or not the offender would pose a threat to public safety if sentenced to intensive correctional supervision. The probation officer shall include this information in his or her recommendation to the court.

1 (c) It is the intent of the Legislature in enacting this  
2 chapter that offenders who have substance abuse  
3 problems be given priority in participating in the  
4 program.

5 (d) Nothing in this chapter shall be construed to limit  
6 the ability or obligation of a court to impose confinement  
7 in a county jail or a community correctional facility as a  
8 condition of probation before an offender is sentenced to  
9 the intensive correctional supervision program.

10 (e) In sentencing a person to intensive correctional  
11 supervision, a court shall impose terms and conditions  
12 consistent with the requirements of this chapter and shall,  
13 as an additional condition, require the offender to waive  
14 any right to a hearing to contest imposition by a probation  
15 officer of the intermediate sanctions specified in  
16 subdivision (b) of Section 1210.9. The court may also  
17 impose additional terms and conditions as provided for by  
18 law for persons placed on probation or given a conditional  
19 sentence under Section 1203.

20 (f) An offender may be sentenced to intensive  
21 correctional supervision for a period of up to nine months.  
22 After completion of intensive correctional supervision,  
23 the offender shall be placed on supervised probation for  
24 up to four years.

25 (g) Nothing in this chapter shall be construed to limit  
26 an offender's right to petition for termination of a period  
27 of probation under Section 1203.3 or to seek dismissal of  
28 the accusations or information under Section 1203.4.  
29 However, an offender may exercise his or her rights  
30 under these sections only upon successful completion of  
31 intensive correctional supervision.

32 (h) Offenders sentenced pursuant to this section shall  
33 be deemed to have served a prior state prison term for  
34 purposes of this code.

35 (i) The chief probation officer of each county shall be  
36 responsible for the county probation intensive  
37 correctional supervision program and for coordinating  
38 and contracting for all related services.





(j) This section shall not apply to a person committed to the Department of Corrections on or before January 1, 2001.

1210.6. (a) The Department of Corrections shall have responsibility for oversight of county probation intensive supervision programs and shall adopt regulations as may be necessary for the administration and oversight of this chapter. All regulations, procedures, and criteria shall be adopted on or before September 30, 2001.

(b) Funding for this chapter is contingent upon a Budget Act appropriation establishing the Intensive Correctional Supervision Account. From this account the Department of Corrections shall provide funds to counties which may be used only for intensive supervision probation programs operated by the county probation department for persons who would otherwise be sentenced to the state prison, and alcohol and substance abuse testing and treatment, education, employment assistance, and mental health counseling for persons in these programs. Funds may also be used for the purpose specified in Section 1210.4 for persons in these programs.

(c) It is the intent of the Legislature that funds be redirected from paying for cost of incarceration in the state prison to paying for the cost of intensive correctional supervision for persons eligible for these programs.

(d) The cost of the intensive correctional supervision program established by this chapter shall be financed in each participating county by the state in accordance with the following:

(1) On or before October 1 of each year, beginning in 2002, the governing body of each county shall adopt an intensive Correction Supervision Plan and budget for the following fiscal year and shall submit the plan and budget to the Department of Corrections in accordance with procedures specified by the department.

(2) For the 2002-03 fiscal year, each county shall submit a plan and budget on or before December 31, 2001.

1 (3) Funds limited to 50 percent of the average cost of  
2 incarcerating an offender in the state prison system shall  
3 be allocated to counties for each person sentenced to the  
4 intensive correctional supervision program who would  
5 otherwise have been sentenced to the state prison. The  
6 funding for each offender shall be prorated to reflect the  
7 amount of time actually served by the offender in the  
8 intensive correctional supervision program. Any costs of  
9 the state under this program for the benefit of the county  
10 shall be transferred to, and assumed by, the benefitted  
11 county.

12 (4) Each county probation department shall maintain  
13 a separate account for funds received pursuant to this  
14 section. These funds shall be used by county probation  
15 departments only for intensive correctional supervision  
16 and to contract for services to offenders, as authorized by  
17 this chapter and any regulations or guidelines  
18 promulgated by the Department of Corrections.

19 (e) Allocation of funds in the Intensive Correctional  
20 Supervision Account shall be made upon application by  
21 each participating county to the Department of  
22 Corrections and shall be available for two fiscal years  
23 subsequent to the fiscal year in which the original  
24 appropriation was made.

25 (f) Allocation of the amount determined in paragraph  
26 (3) of subdivision (d) shall be made to a participating  
27 county upon submission of a plan and budget, as required  
28 by paragraphs (1) and (2) of subdivision (d), and upon  
29 application for funds by the governing body of the county  
30 to the Department of Corrections, based upon criteria to  
31 be developed by the department in conjunction with the  
32 counties.

33 (g) The criteria shall provide for reports of  
34 expenditures and information and shall constitute a  
35 contractual obligation.

36 (h) Commencing in the 2003-04 fiscal year, the  
37 distribution of funds pursuant to this chapter shall be  
38 made on a quarterly basis in accordance with regulations  
39 adopted by the department.



(i) Unexpended funds from the Intensive Correctional Supervision Account may be reallocated by the Director of Corrections.

(j) The department shall monitor the expenditures and funds of a participating county to determine whether the funds are being expended in accordance with all the requirements of this chapter. The department shall also establish requirements for the evaluation of programs supported by this chapter, including requirements designed to demonstrate the effectiveness of these programs in reducing state prison overcrowding.

(k) If the department finds that a participating county is not acting in accordance with all of the requirements of this chapter, it shall notify the county regarding the points of noncompliance, and the county shall have 60 days to explain or justify its action in writing to the Department of Corrections. If the explanation is not satisfactory or if the point of noncompliance cannot be promptly cured in the opinion of the department, the department may issue a notice of noncompliance and may suspend payment of any funds due the county under this chapter.

1210.7. Each intensive correctional supervision team shall periodically review and evaluate the needs of each offender and his or her performance in the program. The team may notify the level of supervision of an offender, including transferring him or her to regular probation supervision.

1210.8. (a) If it is determined after a hearing by the court that an offender in an intensive correctional supervision program has committed an additional public offense or has otherwise violated a condition of probation, the court may revoke intensive correctional supervision and order any disposition authorized by law for a violation of the terms and conditions of probation.

(b) In ordering dispositions pursuant to subdivision (a), the court shall consider intermediate sanctions, including, but not limited to, more restrictive conditions of supervision, inpatient and outpatient substance abuse treatment programs, house arrest, electronic monitoring,

1 placement in a substance abuse community correctional  
2 center for up to 30 days, and other intermediate sanctions  
3 permitted by law. However, the primary consideration  
4 shall be public safety.

5 (c) As an additional intermediate sanction a court may  
6 order an offender to serve up to 30 days in the county jail.  
7 Time served in the county jail shall not be considered to  
8 be a part of the prescribed period of intensive community  
9 corrections.

10 1210.9. County probation departments are  
11 authorized to contract as necessary for substance abuse  
12 treatment, employment and education assistance, mental  
13 health counseling, and other necessary services as  
14 provided for in this chapter. Priority shall be given to  
15 utilizing available and appropriate public agency  
16 services. Custody in secure facilities shall be provided by  
17 sworn peace officers or correctional officers as defined by  
18 state law.

19 1210.10. The Department of Corrections shall  
20 evaluate the intensive correctional supervision programs  
21 established pursuant to this chapter and report the  
22 conclusions of its evaluation to the Legislature by January  
23 1, 2007. The evaluation shall include an analysis of the  
24 effectiveness of these programs in reducing prison  
25 overcrowding, recidivism, substance abuse, and state and  
26 county corrections costs.

27 1210.11. If any court renders a decision that would  
28 have the effect of requiring all counties to participate in  
29 the state-local corrections partnership program or if any  
30 legislation, regulation, or rule is enacted that has the  
31 effect of penalizing counties that do not participate in the  
32 program established by this chapter, this chapter shall  
33 become inoperative.

34 1210.12. (a) Any county that participates in the  
35 program shall have no obligation to continue services for  
36 offenders if the state discontinues funding for the  
37 program.

38 (b) Any county that participates in the program may  
39 reduce the services provided correspondingly with any  
40 reduction in state funding.



1 1210.13. This chapter shall remain in effect until  
2 January 1, 2008, and as of that date is repealed, unless a  
3 later enacted statute, which is enacted before January 1,  
4 2008, deletes or extends that date.

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